

95CR235

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FILED
SCRANTONMOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT
MAY 31 2005 SENTENCE BY A PERSON IN FEDERAL CUSTODY

PER	United States District Court	District MIDDLE DISTRICT-PENNSYLVANIA
Name (under which you were convicted): Peter P. MAUCHLIN		Docket or Case No.: 95 CR 00235
Place of Confinement: ADX-Florence, CO.		Prisoner No.: 71743-158
UNITED STATES OF AMERICA		Movant (include name under which convicted) Peter P. MAUCHLIN

MOTION

1. (a) Name and location of court that entered the judgment of conviction you are challenging: U.S. District Court, 240 West 3rd Street, Williamsport, PA. 17701-6460
- (b) Criminal docket or case number (if you know): 95-CR-00235
2. (a) Date of the judgment of conviction (if you know): 5-10-1996
- (b) Date of sentencing: 7-29-1996
3. Length of sentence: 137 months
4. Nature of crime (all counts): 18 USC, Sec. 371 & 1791(a)(2) 1 count
18 USC Sec. 1791(a)(2), 1791(d)(1)(B) 2 counts

ALSO, 'Obstruction of Justice' - No indictment or JURY Trial,
Found guilty in 5 minute bench trial by Sentencing judge

5. (a) What was your plea? (Check one)

(1) Not guilty <input checked="" type="checkbox"/>	(2) Guilty <input type="checkbox"/>	(3) Nolo contendere (no contest) <input type="checkbox"/>
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- (b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to?

N/A
6. If you went to trial, what kind of trial did you have? (Check one) Jury Judge only
7. Did you testify at a pretrial hearing, trial, or post-trial hearing? Yes No

8. Did you appeal from the judgment of conviction? Yes No

9. If you did appeal, answer the following:

(a) Name of court: 3rd Circuit Court of Appeals

(b) Docket or case number (if you know): Dont Know

(c) Result: upheld Conviction

(d) Date of result (if you know): Dont Know

(e) Citation to the case (if you know): Dont Know

(f) Grounds raised: Dont Know

(g) Did you file a petition for certiorari in the United States Supreme Court? Yes No

If "Yes," answer the following:

- (1) Docket or case number (if you know): *Dont Know*
(2) Result: *Denied*

(3) Date of result (if you know): *Dont Know*
(4) Citation to the case (if you know): *Dont Know*
(5) Grounds raised: *Dont Know*

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications concerning this judgment of conviction in any court?

Yes No

11. If your answer to Question 10 was "Yes," give the following information:

 - (a) (1) Name of court: U.S. DISTRICT COURT, Williamsport, PA, 17701.
 - (2) Docket or case number (if you know): 4:05-CV-00157
 - (3) Date of filing (if you know): JAN. 24, 2005
 - (4) Nature of the proceeding: 28 USC, 2255
 - (5) Grounds raised: U.S. Supreme Court ruling in Blakely v. Washington,
Fanfan, etc.

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes No

(7) Result: Offered Election to postpone, I accepted.

(8) Date of result (if you know): Feb. 2, 2005

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court: U.S. District Court, Williamsport, PA 17701

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): JAN. 24, 2005

(4) Nature of the proceeding: Motion for Appointment of Counsel (Public Def.Off.)

(5) Grounds raised: Inadequate Prison Law Library, Lack of Legal Training, Standing

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes No

(7) Result: Denied

(8) Date of result (if you know): Feb 2, 2005

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition: Yes No

(2) Second petition: Yes No

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not:

I'm not an attorney and The Corrupt Scumbag would not appoint one to assist me in appealing his order - Knowing full well from my motion that I would be unable to pursue an appeal of his denial.

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: Denial of Due Process/Trial by Jury, Arraignment, discovery, etc.

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): 5 minute Trial, on the motion of the prosecuting U.S. ATTORNEY (Frederick MARTIN) that I was guilty of "obstruction of justice" (relating to a lack of cooperation with a grand jury). After which "Trial", the verdict of guilty by the judge (not a jury trial) was then used to enhance my sentence.

(b) Direct Appeal of Ground One:

- (1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

- (2) If you did not raise this issue in your direct appeal, explain why: I have no idea whether this ground was raised since an attorney filed the appeal.

(c) Post-Conviction Proceedings:

- (1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

- (2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

- (3) Did you receive a hearing on your motion, petition, or application?

Yes No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

GROUND TWO: _____

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): _____

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why: _____

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

GROUND THREE: _____

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): _____

A graph on a 10x10 grid showing two triangular pulses. The first pulse is centered at $x=2$ and reaches a height of 1. The second pulse is centered at $x=6$ and also reaches a height of 1. The grid consists of 10 horizontal and 10 vertical lines.

(b) Direct Appeal of Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why: _____

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know): _____

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion, petition, or application?

Yes No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

GROUND FOUR: _____

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): _____

(b) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why: _____

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

(2) If your answer to Question (c)(1) is "Yes," state

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes No

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: _____

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the judgment you are challenging? Yes No
If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. _____

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: _____

(b) At arraignment and plea: _____

(c) At trial: _____

(d) At sentencing: _____

(e) On appeal: _____

(f) In any post-conviction proceeding: _____

(g) On appeal from any ruling against you in a post-conviction proceeding: _____

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time? Yes No

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: _____

(b) Give the date the other sentence was imposed: _____

(c) Give the length of the other sentence: _____

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes No

18. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.*

A NEW RULE OF CONSTITUTIONAL LAW(BIAKE-LY, FANFAN,) ON Review BY U.S. SUPREME COURT
THAT WAS PREVIOUSLY UNAVAILABLE

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of —

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

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Therefore, movant asks that the Court grant the following relief:

Appoint Counsel, Vacate
The ILLEGAL Conviction (obstruction of Justice) and Sentence,
grant Petitioners motion to proceed in forma Pauperis (See Attached
or any other relief to which movant may be entitled.)

Transaction/Account Record)

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this

Motion Under 28 U.S.C. § 2255 was placed in the prison mailing system on 05-26-05 (May Five,
Two Thousand and Five (month, date, year).

Executed (signed) on 05-25-05 (date).

Peter P. Marchlin

Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion.

Name: Peter R. Marchlun
Reg. No: 71743-158
U.S. PENITENTIARY - MAX
P.O. Box 2000
Hoboken, NJ 07030-0200



U.S. PENITENTIARY - MAX
P.O. Box 2000
Hoboken, NJ 07030-0200

To:

CLERK United States District Court,
Middle District of Pennsylvania

RECEIVED
SCRANTON
MAY 31 2005

P.O. Box 1148

Scranton, PA. 18501 - 1148

[Legal Correspondence]

http://www.industrydocuments.ucsf.edu/docs

Dear Sir/Madam:

05.26.05

Enclosed are one (1) original and two (2) copies of a 28 USC Sec. 2255 petition as per the instruction sheet. Please excuse me but there was not a form included for Leave To proceed in "forma Pauperis"- however, I raised the point/motion for Leave To proceed in forma Pauperis on the last page (13), under requests for relief(s). Also- I attached a copy of all my institutional transactions over the last 6 months and the current amount of money on my account; \$,83⁴

Lastly, my reference to the sentencing judge as a "corrupt scumbag" was not a mere emotional appeal but a statement of fact, in that, during the trial, the (J.F. McClure, Jr.) influenced the U.S. Attorney (J. Martin) to attend a social function also being attended by members of the jury. Jury Tampering is both a felony and (last time I looked) an impeachable offense for a federal judge. Which, perhaps understandably (?) is why I elected not to have this petition reviewed by him- but rather (hopefully) some other, less biased Justice in the Middle District of PA.

Sincerely,
Peter P. Macchiarini

**Motion to Vacate, Set Aside, or Correct a Sentence
By a Person in Federal Custody**

(Motion Under 28 U.S.C. § 2255)

Instructions

1. To use this form, you must be a person who is serving a sentence under a judgment against you in a federal court. You are asking for relief from the conviction or the sentence. This form is your motion for relief.
 2. You must file the form in the United States district court that entered the judgment that you are challenging. If you want to challenge a federal judgment that imposed a sentence to be served in the future, you should file the motion in the federal court that entered that judgment.
 3. Make sure the form is typed or neatly written.
 4. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
 5. Answer all the questions. You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit a brief or arguments, you must submit them in a separate memorandum.
 6. If you cannot pay for the costs of this motion (such as costs for an attorney or transcripts), you may ask to proceed *in forma pauperis* (as a poor person). To do that, you must fill out the last page of this form. Also, you must submit a certificate signed by an officer at the institution where you are confined showing the amount of money that the institution is holding for you.
 7. In this motion, you may challenge the judgment entered by only one court. If you want to challenge a judgment entered by a different judge or division (either in the same district or in a different district), you must file a separate motion.
 8. When you have completed the form, send the original and two copies to the Clerk of the United States District Court at this address:
- Clerk, United States District Court for the Middle District of Pennsylvania
P.O. Box 1148
Scranton, PA 18501-1148
9. **CAUTION:** You must include in this motion all the grounds for relief from the conviction or sentence that you challenge. And you must state the facts that support each ground. If you fail to set forth all the grounds in this motion, you may be barred from presenting additional grounds at a later date.
 10. **CAPITAL CASES:** If you are under a sentence of death, you are entitled to the assistance of counsel and should request the appointment of counsel.

Date: 05/17/2005
Time: 10:08:06 am

Federal Bureau of Prisons
TRUFACS
View Inmate Transactions
Limited Official Use

Facility: FLM

Inmate	Reg#	Inmate Name	Facility	User Id	Transaction Type	Amount	Reference#	Receipt#	Payment#	Balance
05/16/2005 08:58:55 AM	71743158	MAUCHLN, PETER PHILLIP	FLM	FLP7032	Debt Encumbrance - Debts Owed Gov't	(\$0.83)	5FLMD767 -			\$0.83
05/06/2005 08:40:38 AM	71743158	MAUCHLN, PETER PHILLIP	FLM	FLM3002	Sales	(\$1.85)	3			\$2.68
04/22/2005 09:26:49 AM	71743158	MAUCHLN, PETER PHILLIP	FLM	FLM3003	Sales	(\$15.20)	8			\$17.88
04/01/2005 09:00:15 AM	71743158	MAUCHLN, PETER PHILLIP	FLM	FLM3002	Sales	(\$1.85)	10			\$19.73
03/11/2005 08:39:29 AM	71743158	MAUCHLN, PETER PHILLIP	FLM	FLM3002	Sales	(\$2.25)	6			\$21.98
03/04/2005 08:58:52 AM	71743158	MAUCHLN, PETER PHILLIP	FLM	FLM3002	Sales	(\$2.00)	10			\$23.98
02/15/2005 10:41:36 AM	71743158	MAUCHLN, PETER PHILLIP	FLM	FLP7032	Photo Copies	(\$1.70)	5JV000084			\$25.68
02/11/2005 09:22:56 AM	71743158	MAUCHLN, PETER PHILLIP	FLM	FLM3002	Sales	(\$4.25)	20			\$29.93
01/28/2005 10:07:43 AM	71743158	MAUCHLN, PETER PHILLIP	FLM	FLM3002	Sales	(\$3.70)	12			\$33.63
01/25/2005 08:09:57 AM	71743158	MAUCHLN, PETER PHILLIP	FLM	FLP0001	Photo Copies	(\$2.00)	5JV000063			\$35.63
01/10/2005 10:44:21 AM	71743158	MAUCHLN, PETER PHILLIP	FLM	FLM2005	Payroll - IPP	\$35.20	5JV000051			\$6.21
12/17/2004 07:50:04 AM	71743158	MAUCHLN, PETER PHILLIP	FLM	FLM3002	Sales	(\$5.78)	27			\$26.13
12/10/2004 09:16:01 AM	71743158	MAUCHLN, PETER PHILLIP	FLM	FLM3002	Sales	(\$19.92)	18			\$0.09
11/12/2004 08:31:06 AM	71743158	MAUCHLN, PETER PHILLIP	FLM	FLM2004	Payroll - IPP	\$26.04	5JV000029			\$16.54
11/11/2004 02:07:30 AM	71743158	MAUCHLN, PETER PHILLIP	FLM	AMSERV1	Photo Copies	(\$4.81)	4FLMD328			\$21.35
11/11/2004 02:07:30 AM	71743158	MAUCHLN, PETER PHILLIP	FLM	AMSERV1	Photo Copies	(\$2.00)	4FLMD271			

Date: 05/17/2005
Time: 10:08:06 am

Federal Bureau of Prisons
TRUFACS
View Inmate Transactions
Limited Official Use

Facility: FLM

Date/Time	Inmate Req#	Inmate Name	Facility	User Id	Transaction Type	Amount	Reference#	Receipt#	Payment#	Balance
11/11/2004 02:07:30 AM	71743158	MAUCHLN, PETER PHILLIP	FLM	AMSERVI	Postage	(\$1.85)				\$23.35
11/11/2004 02:07:30 AM	71743158	MAUCHLN, PETER PHILLIP	FLM	AMSERVI	Debt Encumbrance - Released - Debts Owed Gov't	\$4.81				4FLMD328 - 41
11/11/2004 02:07:30 AM	71743158	MAUCHLN, PETER PHILLIP	FLM	AMSERVI	Debt Encumbrance - Released - Debts Owed Gov't	\$2.00				4FLMD271 - 40
11/11/2004 02:07:30 AM	71743158	MAUCHLN, PETER PHILLIP	FLM	AMSERVI	Debt Encumbrance - Released - Debts Owed Gov't	\$1.85				4FLMD232 - 39
11/10/2004 09:40:37 AM	71743158	MAUCHLN, PETER PHILLIP	FLM	FLM2005	Debt Encumbrance - Debts Owed Gov't	(\$4.81)				4FLMD328 - 41
11/10/2004 09:40:37 AM	71743158	MAUCHLN, PETER PHILLIP	FLM	FLM2005	Debt Encumbrance - Debts Owed Gov't	(\$2.00)				4FLMD271 - 40
11/10/2004 09:40:37 AM	71743158	MAUCHLN, PETER PHILLIP	FLM	FLM2005	Debt Encumbrance - Debts Owed Gov't	(\$1.85)				4FLMD232 - 39
11/10/2004 09:40:37 AM	71743158	MAUCHLN, PETER PHILLIP	FLM	FLM2005	Payroll - IPP	\$25.20				5JY00012

Total Number of Rows: 25